

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

<b>In the Matter of</b>	)	
	)	
<b>Promoting Efficient Use of Spectrum Through</b>	)	<b>WT Docket No. 00-230</b>
<b>Eliminating of Barriers to the Development of</b>	)	
<b>Secondary Markets</b>	)	
	)	

**COMMENTS OF  
CANTOR FITZGERALD TELECOM SERVICES, LLC**

Cantor Fitzgerald Telecom Services, LLC (“Cantor Telecom”) hereby submits its comments in response to the Report and Order (“Report and Order”) and Further Notice of Proposed Rule Making (“Further Notice”) of October 6, 2003 in the above-referenced proceeding.<sup>1</sup>

**DISCUSSION**

As explained in greater detail in its earlier submissions in this proceeding and to the Spectrum Policy Task Force in Docket No. ET 02-135, Cantor Telecom is a subsidiary of Cantor Fitzgerald, L.P. Cantor Telecom leverages Cantor Fitzgerald's proven trading technologies and applies these tools to the emerging telecommunications marketplaces like spectrum sales and leasing. Cantor Telecom is uniquely qualified to act as a clearinghouse for secondary spectrum market transactions by its in-house telecommunications expertise, scalable trading platforms and brokerage services that are proven, unbiased and confidential. For further detail, see [www.cantortelecom.com](http://www.cantortelecom.com).

Cantor Telecom applauds the Commission’s actions in the Report and Order. After reviewing the Report and Order, Cantor Telecom believes that buyers and sellers

---

<sup>1</sup> *In the Matter of Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets*, WT Docket No. 00-230, Report and Order and Further Notice of Proposed Rulemaking (rel. Oct. 6, 2003).

have sufficient legal and regulatory authority to lease spectrum to allow the development of an effective secondary market in spectrum to get underway. Cantor Telecom urges the Commission to continue on this path by adopting further initiatives to increase parties' flexibility in trading and using spectrum, thereby reducing regulatory friction in the marketplace.

For example, Cantor Telecom believes that the Commission should use its forbearance power to the full extent permissible under the Telecommunications Act of 1996 to refrain from requiring prior Commission approval for many classes of transactions.<sup>2</sup> In the Report and Order, the Commission has drawn a distinction between spectrum manager leasing that does not require approval and “*de facto* transfer” leasing that does require approval, and has streamlined the approval process for most leases.<sup>3</sup> This is a very promising first step, but the market would be made even more efficient if these remaining approval barriers could be removed by exercise of the Commission's forbearance power. Similarly, forbearance from requiring prior approval for out-and-out assignments and permanent transfers of licenses would add certainty and liquidity to the marketplace.<sup>4</sup>

For the same reason, Cantor Telecom applauds the Commission's proposal in the Further Notice to examine extending its new policies to services other than those covered in the Report and Order.<sup>5</sup> The problem of spectrum lying fallow in some areas or services when there is scarcity elsewhere is far broader than the specific services

---

<sup>2</sup> Further Notice, ¶ 245.

<sup>3</sup> Report and Order, ¶ 9.

<sup>4</sup> Further Notice, ¶ 278.

<sup>5</sup> See, e.g., Further Notice, ¶ 291.

addressed in the Report and Order.<sup>6</sup> Further, the utility of the marketplace in allowing spectrum to flow to its most highly valued use transcends those specific services as well.

Cantor Telecom would also point out that the marketplace would work best to the extent that spectrum can (consistent with technical characteristics, including interference) be seen as fungible. Accordingly, the Commission should revisit its various use and eligibility restrictions with an eye to eliminating as many of them as possible, consistent with statutory requirements and the public interest.<sup>7</sup>

There is one additional key requirement, which the Commission correctly recognizes will be vital to the efficiency of spectrum trading, for both market-makers like Cantor Telecom as well as buyers and sellers of spectrum rights. This is the ability to have accurate and up-to-date information as to ownership of all public spectrum holders readily available.<sup>8</sup> For this purpose, Cantor Telecom submits that an electronic, real-time clearinghouse function should be established to (i) ensure the financial viability of wireless spectrum counterparties, (ii) provide oversight and query functionality to the FCC to ensure adherence to spectrum leasing rules, (iii) help permit detection of non-compliance, and (iv) guarantee funds transfer upon execution of wireless spectrum leases or sales between counterparties. Cantor Telecom suggests that functionalities (i) and (iv) in particular are best performed by a private entity rather than the Commission, and that such an entity would have strong incentives in any event to develop the information base needed to fulfill the functionalities (ii) and (iii). This private resource would accordingly have the potential to conserve the Commission's information-gathering resources.<sup>9</sup>

---

<sup>6</sup> Report and Order, ¶ 84 & n.181.

<sup>7</sup> Further Notice, ¶ 249.

<sup>8</sup> Further Notice, ¶ 218.

<sup>9</sup> Further Notice, ¶ 219.

Therefore, Cantor Telecom proposes that the Commission designate such an entity to perform such transactional and informational clearinghouse functions.<sup>10</sup>

Cantor Telecom's [www.cantorspectrumexchange.com](http://www.cantorspectrumexchange.com) will already create a place for lessors and lessees to determine specific spectrum availability, to have reliable market price discovery, and ultimately to make deals which lead to spectrum use. Over time, Cantor Telecom's exchange will contain most, if not all the information the Commission will need for effective and efficient function of a secondary spectrum market. By designating a particular entity to serve as the clearinghouse, however, the Commission can ensure that all the information it (and the market) needs can be easily found and readily accessed in one centralized place.

The Report and Order combined with private initiatives such as Cantor Telecom's exchange will promote the use of unused spectrum and positively impact the overall value of spectrum. The Report and Order creates new opportunities for voluntary market-based lease transactions for a range of wireless services. Lessees will be able design and develop their own systems and services based on current business economics and will have enforceable rights to continue that use. Conversely, licensees will not need to permanently divest license rights in order to monetize spectrum rights. The FCC should continue these initiatives by increasing parties' flexibility in trading and using spectrum and reducing regulatory barriers to the operation of a secondary spectrum marketplace.

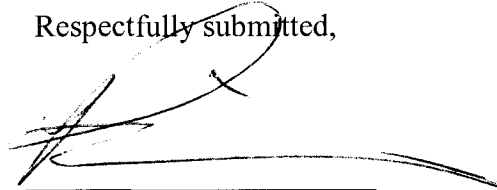
---

<sup>10</sup> Such an entity should, of course, be required to show proven and thoroughly tested capability to provide all such functionalities in real time on an automated basis.

## CONCLUSION

Cantor Telecom applauds the Commission's actions in the Report and Order and urges it to take the steps described above to further facilitate the emergence of an effective, efficient secondary market in spectrum.

Respectfully submitted,



Brent Wilkins, Managing Director  
Darrin Mylet, Vice President-Wireless Services  
Cantor Fitzgerald Telecom Services, LLC  
2500 Regency Parkway  
Cary, NC 27511  
(919) 654-6800

Andrew D. Lipman  
Patrick J. Whittle  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
(202) 424-7500

Counsel to Cantor Fitzgerald  
Telecom Services, LLC

Dated: December 5, 2003